

ITG News
Keeping First Nations Informed

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Message From The Director

We recently completed our initial Consultation Listening meeting which was held on November 30th in Anchorage. I want to thank all of the participants who provided input on pending federal tax issues and discussed various concerns involving federal tax administration. This meeting was part of our commitment to meet at least once every three years with interested tribal leadership in each of the 12 BIA regions.

We have scheduled the next Consultation Listening meeting in conjunction with the United South and Eastern Tribes (USET) as part of their Impact Week meeting. The specific date and location for this meeting is:

Tuesday February 7th - 11:00a.m.-1:00 p.m.

Crystal Gateway Marriott
1700 Jefferson Davis Highway
Arlington, Virginia 22202

Those who are unable to attend this meeting can participate in similar meetings in other areas of the country which will be announced in future issues of ITG News and on our web site. In addition, tribal representatives can submit written input or inquiries at any time through the e-mail link on the bottom of our

Consultation web page or by writing to me at:

Internal Revenue Service
SE: T: GE: ITG
1111 Constitution Avenue NW
Washington, DC. 20224.

In addition to the Listening meetings, an Indian Tribe or group of Indian Tribes may invoke consultation on any issue or IRS action that may impact or is impacting them. A Tribe may also request consultation where it desires to seek the input of the IRS on the potential federal tax consequences of economic opportunities, local laws, agreements, or similar matters that may affect, or be of interest to, the Indian Tribe. All such requests may be submitted at any time via e-mail to tege.itg.consultation@irs.gov.

As always, if you would like to discuss any issue, please feel free to contact me at Christie.Jacobs@irs.gov or via telephone at (202) 283-9800.

Christie Jacobs

Federal Tax Calendar for First Quarter 2006

January 2006

Sunday, January 1 - Stop advance payments of EITC for any employee not filing a new Form W-5

Thursday, January 5 - * make a deposit for 12/28-12/30

Friday, January 6 - * make a deposit for 12/31-1/3

Tuesday, January 10 - Employees report December tip income to employers if \$20 or more

Wednesday, January 11 - * make a deposit for 1/4-1/6

Friday, January 13 - * make a deposit for 1/7-1/10

Tuesday, January 17 - ** Make a deposit for December if under the monthly deposit rule

Thursday, January 19 - * make a deposit for 1/11-1/13

Friday, January 20 - * make a deposit for 1/14-1/17

Wednesday, January 25 - * make a deposit for 1/18-1/20

Friday, January 27 - * make a deposit for 1/21-1/24

Tuesday, January 31 - Give employees copies of their Forms W-2 for 2004, and give annual information statements (Forms 1099, 1098, 5498, and W-2G) to all recipients of reportable payments

February 2006

Wednesday, February 1 - * make a deposit for 1/25-1/27

Friday, February 3 - * make a deposit for 1/28-1/31

Wednesday, February 8 - * make a deposit for 2/1-2/3
Friday, February 10 - * make a deposit for 2/4-2/7
Employees report January tip income to employers if \$20 or more
Wednesday, February 15 - * make a deposit for 2/8-2/10
** Make a deposit for January if under the monthly deposit rule
Friday, February 17 - * make a deposit for 2/11-2/14
Thursday, February 23 - * make a deposit for 2/15-2/17
Friday, February 24 - * make a deposit for 2/18-2/21
Tuesday, February 28 - File W-3/W-2s with SSA; file 1096/1099s and 1096/W-2Gs with IRS

March 2006

Wednesday, March 1 - *make a deposit for 2/22-2/24
Friday, March 3 - * make a deposit for 2/25-2/28
Wednesday, March 8 - 3/1-3/3
Friday, March 10 - *make a deposit for 3/4-3/7
Employees report February tip income to employers if \$20 or more
Wednesday, March 15 - *make a deposit for 3/8-3/10
**Make a deposit for February if under the monthly deposit rule
Friday, March 17 - *make a deposit for 3/11-3/14
Wednesday, March 22 - *make a deposit for 3/15-3/17
Friday, March 24 - *make a deposit for 3/18-3/21
Wednesday, March 29 - *make a deposit for 3/22-3/24
Friday, March 31 - *make a deposit for 3/25-3/28

* = Make a Payroll Deposit if you are under the semi-weekly deposit rule.

** = Make a Monthly Deposit if you qualify under that rule.

NOTE: Deposits made through EFTPS are due one day prior to the dates listed.

Return Filing Dates

January 3rd

File Form 730 and pay the tax on applicable wages accepted during November.

January 31st

File Form 941 for the 4th quarter of 2005. If all deposits paid on time and in full, file by February 10th.

File Form 940 for 2005 if liable for Federal Unemployment Tax (not participating or current with state unemployment tax). If all deposits paid on time and in full, file by February 10th.

File Form 730 and pay the tax on applicable wages accepted during December.

File Form 945 for 2005. If all deposits paid on time and in full, file by February 10th.

File Form 943 for 2005 (agricultural entities). If all deposits paid on time and in full, file by February 10th.

February 28th

File information returns for all payments reported to recipients on Forms 1099, 1098, 5498, and W-2G using Form 1096 as a transmittal. If filing these forms electronically, file by March 31st.

File Form W-3 along with copy A of Forms W-2 you issued for 2005. File by March 31st if filing electronically.

File Form 730 and pay the tax on applicable wagers accepted during January.

File Form 8027 if you are a large food and beverage establishment. File by March 31st if filing electronically.

March 31st

File Form 730 and pay the tax on applicable wagers accepted during February.

TEST YOUR KNOWLEDGE

Question: What was the problem that the payroll manager noticed with the Schedule B?

Situation: Continuing staff expansion presented new challenges for XYZ Tribe. In prior years, the Tribe was on a monthly deposit schedule for federal employment taxes (i.e. taxes accumulated during a calendar month were deposited by the 15th day of the following month.) This year, having exceeded the \$50,000 threshold during the look back period, the Tribe is a semiweekly schedule depositor. The Tribe's payroll manager, fortunately, had a good understanding of the semiweekly rules and the transition to the new deposit procedures had gone smoothly.

Now the time had come to prepare the Form 941, Employer's Quarterly Federal Tax Return. As a semiweekly depositor, XYZ Tribe had the additional requirement of including Schedule B, Report of Tax Liability for Semiweekly Schedule Depositors. Schedule B is not required if there is less than a \$2,500 liability during a quarter and the employer pays in full with a timely filed return.

The task of preparing Schedule B was assigned to Patrick, one of XYZ Tribe's payroll associates. Employees were paid every two weeks, so there were a number of transactions to consider. Patrick diligently transcribed the tax deposits onto Schedule B; subtotaled them by month; entered the quarterly total; and then turned the form over to the payroll manager for review. The feedback on these efforts caused Patrick some surprise. According to the manager, although the listing of deposits was accurate and matched the banking records, it would likely result in correspondence from the IRS processing center and even perhaps in having a penalty asserted.

Answer: Patrick unfortunately made the error of listing the deposits made during the quarter instead of providing a record of the employment tax liability arising from wage payments. The tax liability to enter for each payday includes: (1) the income tax withheld from employee paychecks; plus (2) both the employer and employee share of social security and Medicare taxes; less (3) any advance earned income credit (EIC) payments made. Schedule B is used to determine if timely deposits of employment taxes were made by semiweekly schedule employers. If Schedule B is incomplete or missing, the IRS cannot tell if the deposits were timely because the actual dates of the tax liabilities are unknown. An “averaged” failure to deposit penalty may be assessed. This penalty is computed by comparing the deposits and payments to an equal allocation of the total tax liability over the period.

Question: Is a Form 1099-MISC required for Maple?

Situation: Kerry, Controller for ABC Tribe, was reviewing the Forms 1099-MISC (Miscellaneous Income) prepared by a staff assistant. Even though the non-employee compensation payments exceeded the reporting threshold (i.e. \$600 or more), Kerry was unsure about issuing a Form 1099 to contractor, Maple Services LLC.

Maple provided contract equipment maintenance and had received payments totaling \$5,700 for the year. John, the owner of Maple, provided the services under the contract. Kerry noted that although Maple Services was a limited liability company (LLC), the Individual/Sole Proprietor status box was checked on the Form W-9 (Request for Taxpayer Identification Number and Certification). Kerry thought that the Form W-9 otherwise looked complete but was uncertain why Maple Services LLC would have the status of sole proprietor.

Answer: ABC Tribe should issue a Form 1099-MISC to Maple Services LLC since, as discussed below, Maple is treated as a sole proprietorship under the applicable default classification rules.

A limited liability company (LLC) is a relatively new structure under state law for organizing a business. Under the default classification of an LLC with a single owner, the LLC is disregarded for federal taxation purposes as an entity separate from its owner. For an LLC with more than one owner, the default classification is a partnership. An election can also be filed by an LLC to be treated as a corporation instead of the applicable default classification.

Question: Is a Form 1099-MISC required for Dr. Smith?

Situation: KLM Tribe paid \$800 to Dr. Smith for services provided to a tribal member. When the Tribe contacted Dr. Smith for his EIN, he told them that he was incorporated so they didn’t need to issue a Form 1099 to him. Was the

information Dr. Smith provided to the Tribe correct?

Answer: No. KLM Tribe should issue a Form 1099-MISC to Dr. Smith. The exemption from issuing Form 1099-MISC to a corporation does not apply to payments for medical or health care services provided by corporations, including professional corporations.

Form 1099-MISC is required for payments of \$600 or more made to each physician or other supplier or provider of medical or health care services. If payment is made to a corporation, list the corporation as the recipient rather than the individual providing the services. Payments to persons providing health care services often include charges for injections, drugs, dentures and similar items. In these cases the entire payment is subject to information reporting. However, you are not required to report payments to pharmacies for prescription drugs.

In addition, you are not required to report payments to: 1) a tax-exempt hospital or extended care facility or 2) a hospital or extended care facility owned and operated by the United States (or its possessions), a state, the District of Columbia or any of their political subdivisions, agencies or instrumentalities.

W-2 News - Subscribe Today!

Do you submit Forms W-2 (Wage and Tax Statement) to Social Security for your business or your clients? If you do, you will want to sign up for W-2 News - a free electronic newsletter.

Because your time is valuable, this newsletter is issued only when important wage reporting information becomes available, such as when:

Changes occur in W-2 reporting requirements;
Changes occur in Paper and Electronic Filing Instructions;
The new MMREF and AccuWage become available; or
The Business Services Online Web site opens for business.

To sign up, go to <http://www.socialsecurity.gov/employer/w2news>. Provide your email address and select Submit.

NOTE: You will automatically receive this newsletter if you provided your email address when you registered with Business Services Online or if you indicated in your MMREF Record RA, Submitter Record, that your preferred method of contact was email/Internet.

Social Security Now Offers W-2c Online

Social Security has expanded its online Business Services suite of wage reporting services to include W-2c Online. W-2c Online allows you to create, print, and submit up to five Forms W-2c per W-3c over the Internet.

After the introduction of W-2 Online in 2002, many employers requested a similar method to enable them to report corrections electronically. Social Security thinks that you will find W-2c Online to be just as user friendly as its other electronic services. As with W-2 Online, support services are available for W-2c Online.

Even if you file your wage reports using methods other than electronic filing, you may still use W-2c Online to make corrections to those wage reports. If you have any questions, visit Social Security online at <http://www.socialsecurity.gov/employer> or call 800-772-6270.

Introducing Form 944, Employer's Annual Federal Tax Return

To reduce the burden on small employers, the IRS has simplified the rules for filing employment tax returns. Starting with calendar year 2006, certain employers will need to file new Form 944, Employer's Annual Federal Tax Return, instead of Form 941, Employer's Quarterly Federal Tax Return. Form 944 must be filed by employers whose liability for social security, Medicare and withheld federal income taxes for the calendar year is \$1000 or less, except if:

- You file Form 941 electronically,
- You expect to pay annual wages totaling more than \$4000,
- You expect your annual liability for social security, Medicare, and withheld federal income taxes to be more than \$1000,
- You have only farm employees (required to file Form 943, Employer's Annual Tax Return for Agricultural Employees), or
- You have only household employees (required to file Form 942, Employer's Quarterly Tax Return for Household Employees).

The IRS will directly notify employers who are required to file Form 944. If you believe you are eligible, but are not notified, you can contact the IRS at 1-800-829-0115 to determine your eligibility. Do NOT file Form 944 unless directed to do so by the IRS.

We will be posting links to the new Form 944 and instructions on our web site at www.irs.gov/tribes. In addition, we will be updating Publication 4268, Employment Tax Desk Guide for Indian Tribal Governments, to include specific information on this new form. As always, you can also contact your local ITG Specialist if you have any questions concerning this new provision.

Publication 4268-Employment Tax Guide for Tribes

Our on-line Employment Tax Guide continues to receive a very positive response from tribal payroll and finance employees. You can download this comprehensive guide from a link on our landing page at www.irs.gov/tribes

Employee Tip Income Program Questions

ITG has a full-time Tip Coordinator to assist you with any questions about tip reporting agreements. If you are interested in securing a Tip Agreement, have questions concerning your existing agreement, or have received a notice about tip reporting responsibilities that is unclear, please contact Julie Reese at (303) 231-5250, ext. 236.

Reporting Abuses/Schemes

We continue to work with tribes and tribal officials to address financial abuses and schemes being promoted in Indian country. Working together can help ensure the integrity of tribal finances, and eliminate the threats posed by individuals with schemes that appear "too good to be true" and often are. If you are aware of financial impropriety, or of a promoter advocating a scheme that appears highly suspect, you can contact the ITG Abuse Detection and Prevention Team at (716) 686-4860, or via e-mail at tege.itg.schemes@irs.gov

Reporting Employee Theft and Embezzlement

Unfortunately, all businesses and governmental entities can be victimized by employee theft and embezzlement. While most Tribes have enacted a system of internal controls that significantly minimizes the risk, virtually everyone has encountered this issue.

In most cases, the offending employee is terminated by the Tribe. In some cases, the Tribe may attempt to recover the stolen funds through tribal court action, or by referral to local, state, or federal authorities for possible prosecution or issuance of a judgment. This is not always possible since the amount may be insufficient to warrant legal action or the employee may have fled the area.

The Office of Indian Tribal Governments is interested in these cases because monies obtained illegally through theft or embezzlement are subject to federal taxation. Whether the offending individual is prosecuted or not, we can tax their illegally obtained gain, meaning that they will never completely "get away" with their criminal activity.

If you encounter a theft or embezzlement perpetrated by an employee, please provide us with the specific information by contacting us at tege.itg.schemes@irs.gov or calling Randy Johnson at (405) 297-4407.

Previous editions of the newsletter may be found at www.irs.gov/tribes

To add your name or e-mail address to our mailing list, please contact us via e-mail at Carol.A.Czolowski@irs.gov, or call Carol Czolowski at (801) 620-5048.

Customer Satisfaction Survey Results Published

The Office of Indian Tribal Governments recently completed its third annual customer survey obtaining feedback from our customers that will allow us to measure customer satisfaction with our products and services and to determine areas where we need to effect operational changes.

We want to thank everyone who participated. We received input from 187 of the 564 federally recognized Tribes, representing a 33% response rate. This was a slight decrease from 2004 but is a major improvement from the initial survey completed in 2003. While the overall level of satisfaction is a key measure, ITG tabulates the responses to each question and analyzes them by subject area and the geographic location of the respondents. The following chart provides a general summary:

Level of Burden on Tribes/ Delivery of Information to Tribes:

Eastern/Oklahoma Area

Satisfied 69%

Neutral 23%

Dissatisfied 7%

Great Plains/Great Lakes Area

Satisfied 75%

Neutral 16%

Dissatisfied 9%

Southwest Area

Satisfied 64%

Neutral 18%

Dissatisfied 18%

California/Nevada Area

Satisfied 71%

Neutral 20%

Dissatisfied 10%

Pacific Northwest Area

Satisfied 59%

Neutral 32%
Dissatisfied 8%

Alaska Area
Satisfied 58%
Neutral 34%
Dissatisfied 8%

Proper Collaboration with Tribes:
Eastern/Oklahoma Area
Satisfied 64%
Neutral 26%
Dissatisfied 10%

Great Plains/Great Lakes Area
Satisfied 65%
Neutral 33%
Dissatisfied 2%

Southwest Area
Satisfied 46%
Neutral 23%
Dissatisfied 30%

California/Nevada Area
Satisfied 64%
Neutral 23%
Dissatisfied 13%

Pacific Northwest Area
Satisfied 45%
Neutral 45%
Dissatisfied 10%

Alaska Area
Satisfied 50%
Neutral 37%
Dissatisfied 13%

Adherence to Proper Protocol/All Tribes Treated Equally:
Eastern/Oklahoma Area
Satisfied 70%
Neutral 24%
Dissatisfied 6%

Great Plains/Great Lakes Area

Satisfied 71%
Neutral 27%
Dissatisfied 3%

Southwest Area
Satisfied 63%
Neutral 29%
Dissatisfied 9%

California/Nevada Area
Satisfied 71%
Neutral 28%
Dissatisfied 1%

Pacific Northwest Area
Satisfied 49%
Neutral 48%
Dissatisfied 3%

Alaska Area
Satisfied 53%
Neutral 44%
Dissatisfied 3%

Recognition of Tribal Status and Sovereignty Issues:
Eastern/Oklahoma Area
Satisfied 77%
Neutral 13%
Dissatisfied 10%

Great Plains/Great Lakes Area
Satisfied 82%
Neutral 13%
Dissatisfied 5%

Southwest Area
Satisfied 63%
Neutral 20%
Dissatisfied 18%

California/Nevada Area
Satisfied 73%
Neutral 23%
Dissatisfied 5%

Pacific Northwest Area

Satisfied 62%
Neutral 34%
Dissatisfied 3%

Alaska Area
Satisfied 53%
Neutral 40%
Dissatisfied 8%

Accuracy/Timeliness/Honesty in IRS Actions:
Eastern/Oklahoma Area
Satisfied 58%
Neutral 33%
Dissatisfied 9%

Great Plains/Great Lakes Area
Satisfied 50%
Neutral 47%
Dissatisfied 3%

Southwest Area
Satisfied 52%
Neutral 36%
Dissatisfied 13%

California/Nevada Area
Satisfied 71%
Neutral 23%
Dissatisfied 5%

Pacific Northwest Area
Satisfied 48%
Neutral 43%
Dissatisfied 10%

Alaska Area
Satisfied 46%
Neutral 45%
Dissatisfied 9%

Overall Level of Satisfaction:
Eastern/Oklahoma Area
Satisfied 78%
Neutral 17%
Dissatisfied 4%

Great Plains/Great Lakes Area

Satisfied 87%

Neutral 7%

Dissatisfied 7%

Southwest Area

Satisfied 71%

Neutral 14%

Dissatisfied 14%

California/Nevada Area

Satisfied 82%

Neutral 15%

Dissatisfied 3%

Pacific Northwest Area

Satisfied 68%

Neutral 24%

Dissatisfied 8%

Alaska Area

Satisfied 60%

Neutral 36%

Dissatisfied 4%

A report on the survey is posted to our web site at www.irs.gov/tribes. The Office of Indian Tribal Governments will be developing and implementing actions to effect improvements with a particular focus on Collaboration and Timeliness concerns expressed by respondents. We look forward to input at the ongoing Consultation Listening meetings (see Message From the Director) to further assist in determining improvements.

IRS Announces 2006 Standard Mileage Rates

Beginning January 1, 2006, the standard mileage rates for the use of a car (including vans, pickups or panel trucks) will be:

44.5 cents per mile for business miles driven;

18 cents per mile driven for medical or moving purposes; and

14 cents per mile driven in service of charitable organizations, other than activities related to Hurricane Katrina relief.

The new rate for business miles compares to a rate of 40.5 cents per mile for the first eight months of 2005. In September, the IRS made a special one-time adjustment for the last four months of 2005, raising the rate for business miles to

48.5 cents per mile in response to a sharp increase in gas prices, which topped \$3 a gallon.

“The IRS took the extraordinary step of temporarily increasing the standard mileage rates in the aftermath of Hurricane Katrina,” IRS Commissioner Mark W. Everson said. “We promised to continue closely monitoring the situation. The 2006 mileage rates reflect that gas prices have dropped.”

The standard mileage rates for business, medical and moving purposes are based on an annual study of the fixed and variable costs of operating an automobile. Runzheimer International, an independent contractor, conducted the study for the IRS.

The mileage rate for charitable miles is set by statute-

For the first eight months of 2005, the standard rate for miles driven for medical or moving purposes was 15 cents per mile, and, except for special Hurricane Katrina rates, the standard rate for miles driven in service of a charitable organization was 14 cents per mile.

For the last four months of 2005, the agency raised the standard rate for miles driven for medical or moving purposes to 22 cents per mile. The standard rate for charitable miles remained at 14 cents per mile—except for charitable miles relating to Hurricane Katrina.

Special Rates for Katrina-Related Charitable Miles-

Congress this year also approved special rates in connection with miles driven in service of charities providing Hurricane Katrina relief.

For the period Aug. 25 to Aug. 31, 2005, the rate for miles driven for charities providing Hurricane Katrina relief is 29 cents, for deduction purposes, and 40.5 cents, for reimbursement purposes. For the months of September through December 2005, the special Katrina-related rates are 34 cents for deductions and 48.5 cents for reimbursements.

For 2006, these Katrina-related charitable rates will be 32 cents per mile for deduction purposes and 44.5 cents per mile for reimbursement purposes.

Revenue Procedure 2005-78 contains additional information and limitations on the use of the standard mileage rates.

ITG Area Contacts

PACIFIC NORTHWEST

Alaska, Idaho, Oregon, Washington

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Telephone, Internet, & Mailing Address

Call: Customer Account Services toll free 877-829-5500

Visit: Indian Tribal Governments Web site at www.irs.gov/tribes

Write: Internal Revenue Service

Indian Tribal Governments SE:T:GE:ITG

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